

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SCOTT WALLIS, acting individually, and as  
the sole beneficiary of the assets of USA  
Baby, Inc. by Bankruptcy Court Order,  
Plaintiff,

v.

ALAN LEVINE, BARRY COHODES,  
BABY'S ROOM USA, Inc., ALVIN  
ENTERPRISES, Inc., UNITED  
STOREOWNERS ASSOCIATION OF BABY  
STORES, LLC., JALIKAN, Inc., MADISON  
BABY, Inc., N-ONE, LLC., SJL  
ENTERPRISES, Inc., TMD FAMILY, LLC.,  
USA ENTERPRISES, Inc., WINC BABY, Inc.,  
WISCONSIN BABY, Inc., MIERSMA  
REVOCABLE LIVING TRUST, CHRIS  
WHITE, STEVE CRADDOCK, RICK  
JENKINS, BETH JENKINS, JAMES  
KASHER, LINDA KASHER, ROBERT  
HELMHOLDT, LINDA HELMHOLDT, ERIC  
KOHLE, JULIE KOHLE, STUART  
LEBOVITZ, RICHARD COHEN, JASON  
COHEN, TIMOTHY VOEHL, ROBERT  
PAFFENROTH, MARI PAFFENROTH,  
ROBERT MIERSMA, JEAN MIERSMA,  
DALE SCHAUL, BARBEL SCHAUL,  
THOMAS NICKEL, DEBBIE NICKEL,  
NINOCO, LLC., DAWN'S DREAM, Inc.,  
BABY CONCEPTS, Inc., R&M RETAIL  
GROUP, Inc., KALUGA KIDS, Inc., KING &  
ASSOCIATES, EMERYL, Inc., A&N  
INTERNATIONAL, Inc., ELOVEL OF NJ,  
Inc., ELOVEL, Inc., EVERYONE'S GUESS,  
Inc., D&R VENTURES, Inc., AACE II, LLC.,  
WELTON COMPANIES OF SOUTH  
CAROLINA, Inc., EMDIN'S, Inc., DDS  
BABIES, Inc., JUL'S KIDS, LLC., MEYER'S  
TOY WORLD, Inc., WHYTECO, Inc.,  
FAMALHI, LLC., MOONDREAMS  
ENTERPRISES, 2<sup>ND</sup> VENTURE, Inc.,  
TANNERGROVE, LLC., YOUNG JIN K.  
CORP., JDDM, Inc., CUWT BABY, Inc.,  
UWINC BABY, Inc., WEST COAST BABY,  
Inc., L&D ROSS, Inc., BABY AND BEYOND,  
JOHN WALSTON, RENEE WALSTON,

12cv6466  
C. JUDGE SHADUR  
MAG. JUDGE FINNEGAN

HONORABLE:

MAGISTRATE:

IN REM AND IN PERSONAM  
ADMIRALTY COMPLAINT: ASSET  
RECOVERY AND SEIZURE, REAL  
DAMAGES, INJUNCTIVE, AND  
EQUITABLE RELIEF

Jury Trial Demanded

**FILED**

AUG 15 2012

THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

DAWN ELIG, MANISH NIRMAL, LIZETTE )  
MUNOZ-NIRMAL, SAM ALKISHAWI, ART )  
DAGUE, LAURA DAGUE, GEORGE )  
CORREIA, VALERIE KING-AZEVEDO, )  
CHRIS AZEVEDO, JOANNE KEATHLEY, )  
NASIF KAYED, DEBBIE JAUNICH, )  
ESSMAT BARAZI, HOWARD KATZOFF, )  
PATTI KLEIN, STEVE KRICKOVIC, HAPPY )  
KRICKOVIC, J PATRICK WHYTE, ERIC J )  
WHYTE, ADAM P WHYTE, DEL GUESS, )  
CAROLYN GUESS, DENNIS BATES, )  
ROBERT FLORIO, JULIE FLORIO, )  
ARTHUR FRITZ III, RACHEL FRITZ, )  
YOUNG-JIN KIM, DIANE KIM, )  
LUCKVINDER MALHI, JATINDER MALHI, )  
FRED MEYER, PATRICIA MEYER, JAMES )  
RUESS, ROBERT RUESS, JAY REUSS, )  
TIMOTHY NOYES, KIMBERLY NOYES, )  
DANIEL ROSS, ELIZABETH ROSS, )  
SHLOMO SHOSHAN, ILANIT SHOSHAN, )  
WILLIAM KETCHEM, JERAINNE )  
KETCHEM, DAVID SPAHN JR., DEBBIE )  
SPAHN, TRACY TANNER, ANNE GROVE, )  
DAVID WELTON, TAYLOR WELTON, )  
WILLIAM HENDERSON, SCOTT )  
HELLMAN, LESLIE HELLMAN, RAMON )  
BURGOS, DARISSA CASTELLANO- )  
RODRIGUEZ, JOSE RODRIGUEZ, )  
DARNINELL RODRIGUEZ, LRUSS, )  
TBR,LLC., BABY'S DREAM FURNITURE, )  
Inc., PALI Spa, a foreign corporation, )  
CHILDCRAFT INDUSTRIES, Inc. aka )  
LEGACY, WILLIAM SUVAK, MICHAEL )  
SCHAEFFER, KEVIN WALKER, LORETTO )  
PALI AND DAVID FEFELI, BABY DAZE, )  
Inc., BABY TYCOON, Inc., FRISCO BABY, )  
Inc., LONE STAR BABY AND KIDS, MIKE )  
SCHAUL, JEFF BRIGGS, XYZ )  
FRANCHISEE CORPORATION 1-50 AND )  
FRANCHISEE DOES 1-75, ALL BABY & )  
CHILD, Inc., JUVENILE PRODUCTS )  
MANUFACTURERS ASSOCIATION, )  
AMERICAN BABY COMPANY, ARM'S )  
REACH CONCEPTS, Inc., AVENT )  
AMERICA, Inc., BABIES ALLEY aka )  
LARUE, BABY SWEDE, LLC., THE BABY )  
JOGGER CO., BABE EASE, LLC., BACATI, )  
Inc., BADGER BASKET COMPANY, BASIC )  
COMFORT, Inc., BEBE STAR, BERG EAST )  
IMPORTS, Inc., BEST CHAIRS, Inc., BIG )  
BELLY BANKS, BOB TRAILERS, Inc., )

BONAVIDA aka LAJOBI, a subsidiary of )  
 KIDS BRAND, Inc., BOOK PEDDLERS, )  
 BOON, Inc., BLAIREX LABORATORIES, )  
 BRITAX CHILD SAFETY, Inc., )  
 BUGGBAGG, Inc., BUMKINS, )  
 BUMBLERIDE, Inc., BABY EINSTEIN, )  
 COTTON TALE DESIGNS, CALIFORNIA )  
 KIDS, CAL LIGHTING, CAMP KAZOO aka )  
 THE BOPPY COMPANY, CANDIDE PINT )  
 SIZE PRODUCTIONS, CHICCO USA, Inc., )  
 J.L. CHILDRESS CO., Inc., CHARM CO., )  
 CLASSY KID, Inc., CLEARING SKIES )  
 PRESS, COCALO, Inc., COMBI, Inc., )  
 COMPASS, COUNTRY ORIGINALS, Inc., )  
 CREATIVE IMAGES, CROWN CRAFT )  
 INFANT PRODUCTS, Inc., CUTER THAN A )  
 DUCKS BUTT, DEX BABY PRODUCTS, )  
 DOOLEY'S Inc., DREAM BABY aka TEE- )  
 ZED PRODUCTS, LLC., THE ENCORE )  
 GROUP, FIRESIDE COMFORTS, FISHER )  
 PRICE, Inc., FLUERVILLE, Inc., FRECKLES )  
 aka CUSTOM COMFORT, FUNNY )  
 FRIENDS, THE GIFT WRAP CO. aka )  
 PEPPER POT, GLENNA JEAN )  
 MANUFACTURING, GO-GO BABYZ, )  
 GRAND TOURING BABY, GRACO )  
 CHILDREN'S PRODUCTS, Inc., GREEN )  
 FROG ART, GUND, HUMANITY CRY NO )  
 MORE, LLC., HANDI CRAFT COMPANY, )  
 IMAGES BY ELLYN, IMAGE MASTERS, I )  
 PLAY, INTERNATIONAL PLAY THINGS, )  
 JOE HOME, JJ COLE, JOOVY, JUDITH )  
 EDWARDS DESIGNS, JUVENILE )  
 SOLUTIONS, Inc., KIDS PREFERRED, LLC., )  
 KALOO aka LUCKSON, KALENCOM, )  
 KELLY KOUTURE LUXURY LINERS aka )  
 WOOGIES, KELTY PACK, Inc., )  
 KIDDOPOTAMUS AND COMPANY aka )  
 NUZONE, KIDS II, Inc., KID KUSION, KIDS )  
 LINE, KIDCO, Inc., KID KRAFT, )  
 KOLCRAFT ENTERPRISES, Inc., LAMBS & )  
 IVY, Inc., CJ LEACHCO, Inc., LES )  
 INDUSTRIES A.P. Inc., LEVELS OF )  
 DISCOVERY, LEYLAS AKA EASTERN )  
 ACCENTS, LIGHTS-CAMERA- )  
 INTERACTION, THE MANHATTAN )  
 GROUP, MASCOTOPIA, THE MAYA )  
 GROUP, Inc., MBI MERCHANDISE aka MCS )  
 INDUSTRIES, MEADOWBROOK PRESS, )  
 MEDELA, Inc., 4MOMS, MOBI )  
 TECHNOLOGIES, Inc., MOMMY'S



HELPER, MOTHERS INTUITION, MAC )  
 MOTION CHAIRS, MUD PIE, Inc., )  
 MULLINS SQUARE, Inc., MUNCHKIN, Inc., )  
 MUNIRE, Inc., MUSTELA USA, NEW )  
 ARRIVALS, Inc., NEWELL RUBBERMAID, )  
 Inc., NORTH STATE INDUSTRIES, NORTH )  
 AMERICAN BEAR CO., Inc., OIOI BABY )  
 BAGS USA, OOPSY DAISEY, PARENT )  
 UNITS aka TV GUARD, PEACEABLE )  
 KINGDOM PRESS, PEG PEREGO USA, Inc., )  
 PERFECT MEMORY PUBLICATIONS, )  
 PRINCE LIONHEART, PRESCHOOL PREP )  
 COMPANY, PULASKI FURNITURE )  
 CORPORATION, RC2 aka THE FIRST )  
 YEARS, Inc., RECARO NORTH AMERICA, )  
 Inc., REGAL LAGER, Inc., ROBEEZ )  
 FOOTWEAR, THE RUG MARKET )  
 AMERICA, RUMBLE TUFF aka RT )  
 MANUFACTURING, RUNNING PRESS, )  
 SAFEGUARD, SASSY, Inc., SEE ME SMILE )  
 PRODUCTS, SIMPLICITY FOR CHILDREN )  
 aka SPFC, Inc. AKA ELFE JUVENILE )  
 PRODUCTS, SMALL FRY DESIGN, )  
 SOURCEMARK, LLC., SMALL WORLD )  
 TOYS, SNUGGLE MUFF, SORELLE aka )  
 C&T INTERNATIONAL, SPRING AIR )  
 COMPANY, STANLEY FURNITURE )  
 COMPANY aka YOUNG AMERICA, Inc., )  
 STOKKE, SUMMER INFANT, Inc., )  
 SUNSHINE KIDS, SWEET KYLA, THREE )  
 LOLLIES, LLC aka PREGGIE POPS, 3 )  
 MARTHAS, TOTS IN MIND, TOUCH FOR )  
 LIFE, TWELVE TIMBERS, Inc., TWIN )  
 SISTERS PRODUCTION, Inc., UNISAR, Inc., )  
 WC REDMON CO., Inc., WESTWOOD, )  
 WORKMAN PUBLISHING CO., XYZ )  
 VENDOR CORPORATIONS 1-500, )  
 VENDOR DOES 1-1000, XYZ SHIPPING )  
 CORPORATION 1-100, SHIPPING DOES 1- )  
 250, TRAVELERS INDEMNITY COMPANY )  
 AND ITS AFFILIATES, CARD SERVICE )  
 INTERNATIONAL, Inc., HUSCH )  
 BLACKWELL & SANDERS, LLP, )  
 HINSHAW & CULBERTSON, LLP., )  
 LAWRENCE KAMIN SAUNDERS & )  
 UHLENHOP, LLC., RAYMOND )  
 SAUNDERS, JOHN MONICAL, CHARLES )  
 RISCH, PAUL WELTLICH, WICK PHILLIPS )  
 GOULD MARTIN, LLP., BRANT MARTIN )  
 AND MATT MILLER, TROBE BABOWICE )  
 AND ASSOCIATES, PETER TROBE,

MICHAEL FURLONG, BRIAN )  
 PROPERTIES, Inc., JACK WHISLER, )  
 WALLIS KRAHAM, LESLIE RUESS, )  
 DIMONTE & LIZAK, LLC., ABRAHAM )  
 BRUSTEIN, GRAY ROBINSON, P.A., )  
 JASON BURNETT, STORX HOLDINGS, )  
 INC., MITCHELL GOLDBERG, LUCILLE )  
 GOLDBERG, CHUHAK & TECSON, P.C., )  
 JERALYN BARAN, JACQUE STERNQUIST, )  
 RICK GRAFFAGNA, BILL HAMILTON, )  
 KIM LEVINE, TOM GIERLAK, CYNTHIA )  
 BOEH, SEYFARTH AND SHAW, LLP., )  
 SCOTT SCHAEFERS, SMITH AMUNDSEN, )  
 LLP., BRIAN GRAHAM, PETTI MURPHY )  
 AND ASSOCIATES, ED PETTI, M. )  
 HEDAYAT AND ASSOCIATES, SPRINGER )  
 BROWN COVEY GAERTNER & DAVIS, )  
 LLP, AND MARTIN CRAIG CHESTER )  
 SONNENSCHNEIN, LLP., MARK TOLJANIC, )  
 TABET DIVITO AND ROTHSTEIN, LLC, )  
 AND MAUCK AND BAKER, LLC, ANDY )  
 NORMAN, BLOCH AND CHAPLEAU, LLP, )  
 FITCH, EVEN, TABIN AND FLANNERY, )  
 LLP, BELLANDE & SARGIS LAW GROUP, )  
 BLUMENFELD KAPLAN AND )  
 SANDWEISS, LLP, GREENSFELDER )  
 HEMECKER AND GALE, LLP., CHRIST )  
 STACEY, AND MATTHEW WILDERMUTH, )  
 MUCH SHELST, LLP., AND PIPER )  
 RUDNICK, LLP, STINTSON MORRISON )  
 AND HECKER, LLP., MCGLADREY )  
 PULLEN, LLP., TOM SHAW, JOEL )  
 POLAKOW, GH PRINTING, INC., CLICK )  
 AND BRICK MARKETING, LLC., SCOTT )  
 SAKOFF, ARNSTEIN AND LEHR, LLP., )  
 COMMERCE CAPITAL, L.P., FIFTH THIRD )  
 BANK, a Michigan banking corporation, )  
 MULHERIN, REHFELDT & VARCHETTO, )  
 P.C., AMERICAN CHARTERED BANCORP, )  
 Inc., FUCHS & ROSELLI, LTD., )  
 HONORABLE BRUCE R. KELSEY, in his )  
 individual and official capacity, HONORABLE )  
 HOLLIS L. WEBSTER, in his individual and )  
 official capacity, HONORABLE JOHN T. )  
 ELSNER, in his individual and official )  
 capacity, CHRIS KACHIROUBAS, in his )  
 individual and official capacity, DU PAGE )  
 COUNTY OF ILLINOIS, HONORABLE )  
 RICHARD J. BILLICK JR., in his individual )  
 and official capacity, DOROTHY BROWN, in )  
 his individual and official capacity, COOK )

COUNTY OF ILLINOIS, HONORABLE )  
 JAMES R. MURPHY, in his individual and )  
 official capacity, HONORABLE ALAN J. )  
 CARGERMAN, in his individual and official )  
 capacity, DEBORAH SEYLLER, in his )  
 individual and official capacity, KANE )  
 COUNTY OF ILLINOIS, HONORABLE )  
 CHIEF JUDGE CLAUDIA MANLEY, in his )  
 individual and official capacity, ILLINOIS )  
 DEPARTMENT OF LABOR, ILLINOIS )  
 DOES 1-25, THE STATE OF ILLINOIS, )  
 MICHAEL R. SLIWINSKI, in his individual )  
 and official capacity, THE STATE OF OHIO, )  
 OHIO DOES 1-25, HILDA SOLIS, in his )  
 individual and official capacity, M. PATRICIA )  
 SMITH, in his individual and official capacity, )  
 JOAN E. GESTRIN, in his individual and )  
 official capacity, STEVEN L. HAUGEN, in his )  
 individual and official capacity, )  
 GOVERNMENT DOES 1-25, THE UNITED )  
 STATES OF AMERICA, TOYS R US, Inc. dba )  
 BABIES R US, BABIES R US, Inc., NINFRA, )  
 BABY FURNITURE PLUS, BABY NEWS, )  
 DOES 1-100; XYZ CORPORATION 1-100, )  
 ALVIN DEFENDANTS ASSETS, )  
 FRANCHISEE DEFENDANTS ASSETS, )  
 VENDOR DEFENDANTS ASSETS, )  
 CONSPIRACY DEFENDANTS ASSETS )  
 excluding the UNITED STATES OF )  
 AMERICA )

Defendants,

### VERIFIED COMPLAINT

Scott Wallis (Wallis), individually, and as the sole beneficiary of USA Baby, Inc. ("USA Baby") assets ("Assets") by Bankruptcy Court order ("Order"), including its legal claims, Plaintiff, for his complaint against Alan Levine ("Levine"), Barry Cohodes ("Cohodes"), Baby's Room USA, Inc. ("Baby's Room"), Alvin Enterprises, Inc. ("Alvin"), United Storeowners Association of Baby Stores, LLC. ("USABS") (collectively, "**Alvin Defendants**"); Jalikan, Inc. ("Jalikan"), Madison Baby, Inc. ("Madison"), N-One, LLC. ("N-One"), SJL Enterprises, Inc. ("SJLE"), TMD Family, LLC. ("TMDF"), USA Enterprises, Inc. ("USAEnterprise"), Winc Baby, Inc. ("Winc"),



Wisconsin Baby, Inc. ("Wisconsin Baby"), Miersma Revocable Living Trust ("MRLT"), Chris White ("White"), Steve Craddock ("Craddock"), Rick Jenkins ("RJenkins"), Beth Jenkins ("BJenkins"), James Kasher ("JKasher"), Linda Kasher ("LKasher"), Robert Helmholdt ("RHelmholdt"), Linda Helmholdt ("LHelmholdt"), Eric Kohli ("EKohli"), Julie Kohli ("JKohli"), Stuart Lebovitz ("Lebovitz"), Richard Cohen ("RCohen"), Jason Cohen ("JCohen"), Timothy Voehl ("Voehl"), Robert Paffenroth ("RPaffenroth"), Mari Paffenroth ("MPaffenroth"), Robert Miersma ("RMiersma"), Jean Miersma ("JMiersma"), Dale Schaul ("DSchaul"), Barbel Schaul ("BSchaul"), Thomas (aka Allen) Nickel ("TNickel") and Debbie Nickel ("DNickel"), NinoCo, LLC., Dawn's Dream, Inc. ("Dawn's"), Baby Concepts, Inc. ("Baby Con"), R&M Retail Group, Inc. ("R&MRG"), Kaluga Kids, Inc. ("Kaluga"), King & Associates ("KingAssocs"), EmeryL, Inc. ("EmeryL"), A&N International, Inc. ("A&NI"), Elovel of NJ, Inc. ("ElovelNJ"), Elovel, Inc. ("Elovel"), Everyone's Guess, Inc. ("EGuess"), D&R Ventures, Inc. ("D&RV"), AACE II, LLC. ("AACEII"), Welton Companies of South Carolina, Inc. ("WCSC"), Emdin's, Inc. ("Emdin"), DDS Babies, Inc. ("DDSB"), Jul's Kids, LLC. ("Juls"), Meyer's Toy World, Inc. ("Meyer's Toy"), WhyteCo, Inc. ("WhyteCo"), Famalhi, LLC. ("Famalhi"), Moondreams Enterprises ("Moondream"), 2<sup>nd</sup> Venture, Inc. ("2<sup>nd</sup> Venture"), Tannergrove, LLC. ("Tannergrove"), Young Jin K. Corp. ("Young Jin"), JDDM, Inc. ("JDDM"), CUWT Baby, Inc. ("CUWT"), UWinc Baby, Inc. ("Uwinc"), West Coast Baby, Inc. ("WCB"), L&D Ross, Inc. ("L&D Ross"), Baby and Beyond, LLC. ("Beyond"), John Walston ("JWalston"), Renee Walston ("RWalston"), Dawn Elig ("Elig"), Manish Nirmal ("MNirmal"), Lizette Munoz-Nirmal ("LNirmal"), Sam Alkishawi ("Alkishawi"), Art Dague (ADague), Laura Dague ("LDague"), George

Correia (“Correia”), Valerie King-Azevedo (“VAzevedo”), Chris Azevedo (“CAzevedo”), Joanne Keathley (“Keathley”), Nasif Kayed (Kayed), Debbie Jaunich (“Jaunich”), Essmat Barazi (“Barazi”), Howard Katzoff (“Katzoff”), Patti Klein (“Klein”), Steve Krickovic (“SKrickovic”), Happy Krickovic (“HKrickovic”), J Patrick Whyte (“PWhyte”), Eric J Whyte (“EWhyte”), Adam P Whyte (“AWhyte”), Del Guess (“DGuess”), Carolyn Guess (“CGuess”), Dennis Bates (“Bates”), Robert Florio (RFlorio), Julie Florio (“JFlorio”), Arthur Fritz III (“AFritz”), Rachel Fritz (“RFritz”), Young-Jin Kim (“YKim”), Diane Kim (“DKim”), Luckvinder Malhi (“LMalhi”), Jatinder Malhi (“JMahl”), Fred Meyer (“FMeyer”), Patricia Meyer (“PMeyer”), James Ruess (“JJRuess”), Robert Ruess (“RRuess”), Jay Reuss (“JRuess”), Timothy Noyes (“TNoyes”), Kimberly Noyes (“KNoyes”), Daniel Ross (“DRoss”), Elizabeth Ross (“ERoss”), Shlomo Shoshan (“SShoshan”), Ilanit Shoshan (“IShoshan”), William Ketchem (“WKetchem”), Jeraine Ketchem (“JKetchem”), David Spahn Jr. (“DDSpan”), Debbie Spahn (“DSpahn”), Tracy Tanner (“Tanner”), Anne Grove (“Grove”), David Welton (“DWelton”), Taylor Welton (“TWelton”), William Henderson (“Henderson”), Scott Hellman (“SHellman”), Leslie Hellman (“LHellman”), Ramon Burgos (“Burgos”), Darissa Castellano-Rodriguez (“DCRodriguez”), Jose Rodriguez (“JRodriguez”), Darninell Rodriguez (“DRodriguez”), LRuess, TBR,LLC. (“TBR2”), Baby’s Dream Furniture, Inc. (“Baby’s Dream”), Pali S.p.a., a foreign corporation (“Pali”), ChildCraft Industries aka Legacy (“Childcraft”), William Suvak (“Suvak”), Michael Schaeffer (“Schaeffer”), Kevin Walker (“Walker”), Loretto Pali (“LPali”) and David Felfeli (“Felfili”), Baby Daze, Inc. (“Baby Daze”), Baby Tycoon, Inc. (“Baby Tycoon”), Frisco Baby, Inc. (“Frisco Baby”), Lone Star Baby and Kids (“LSBK”), Mike Schaul (“Schaul”)



and Jeff Briggs, XYZ Franchisee Corporation 1-50 and Franchisee Does 1-75 (collectively, “**Franchisee Defendants**”); All Baby & Child, Inc. (“ABC”), Juvenile Products Manufacturers Association (“JPMA”), American Baby Company (“American Baby”), Arm’s Reach Concepts, Inc. (“Arm’s Reach”), Avent America, Inc. (“Avent”), Babies Alley aka Larue (“Baby Alley”), Baby Swede, LLC. (“Baby Swede”), The Baby Jogger Co. (“Baby Jogger”), Baby’s Dream, Babe Ease, LLC. (“Baby Ease”), Bacati, Inc. (“Bacati”), Badger Basket Company (“Badger”), Basic Comfort, Inc. (Basic Comfort), Bebe Star (“Bebe”), Berg East Imports, Inc. (“Berg”), Best Chairs, Inc. (“Best Chairs”), Big Belly Banks (“Big Belly”), Bob Trailers, Inc. (“Bob”), Bonavita aka Lajobi (“Bonavita”), a subsidiary of Kids Brand, Inc. (“Kids Brand”), Book Peddlers (“Book”), Boon, Inc. (“Boon”), Blairex Laboratories (“Blairex”), Britax Child Safety, Inc. (“Britax”), Buggbag, Inc. (“BuggBag”), Bumkins (“Bumkins”), Bumbleride, Inc. (“Bumbleride”), Baby Einstein (“Baby Einstein”), Cotton Tale Designs (“Cotton Tale”), California Kids (“CalKids”), Cal Lighting (“Cal Lighting”), Camp Kazoo aka The Boppy Company (“Boppy”), Candide Pint Size Productions (“Pint Size”), Chicco USA, Inc. (“Chicco”), Childcraft, J.L. Childress Co., Inc. (“Childress”), Charm Co. (“Charm”), Classy Kid, Inc. (“CKid”), Clearing Skies Press (“CS Press”), Cocalo, Inc. (“Cocalo”), Combi, Inc. (“Combi”), Compass (“Compass”), Country Originals, Inc. (“Country Originals”), Creative Images (Creative Images), Crown Craft Infant Products, Inc. (“Crown Craft”), Cuter than a Ducks Butt (“CDB”), Dex Baby Products (“Dex”), Dooley’s Inc. (“Dooley’s”), Dream Baby aka Tee-Zed Products, LLC. (“Dream Baby”), The Encore Group (“Encore”), Fireside Comforts (“Fireside”), Fisher Price, Inc. (“Fisher Price”), Fluerville, Inc. (“Fluerville”), Freckles aka Custom Comfort (“Freckles”), Funny

Friends ("Funny Friends"), The Gift Wrap Co. aka Pepper Pot ("Gift Wrap"), Glenna Jean Manufacturing ("Glenna Jean"), Go-Go Babyz ("Go-Go"), Grand Touring Baby ("GT Baby"), Graco Children's Products, Inc. ("Graco"), Green Frog Art ("Green Frog"), Gund ("Gund"), Humanity Cry No More, LLC. ("HCNM"), Handi Craft Company ("Handi Craft"), Images by Ellyn ("Ellyn"), Image Masters ("Image Masters"), I Play ("IPlay"), International Play Things ("Play Things"), Joe Home ("Joe Home"), JJ Cole ("JJCole"), Joovy ("Joovy"), Judith Edwards Designs ("JED")), Juvenile Solutions, Inc. ("JSI"), Kids Preferred, LLC. ("KidsPref"), Kaloo aka Luckson ("Kaloo"), Kalencom ("Kalencom"), Kelly Kouture Luxury Liners aka Woogies ("Kelly Kouture"), Kelty Pack, Inc. ("Kelty"), Kiddopotamus and Company aka Nuzone, Kids II, Inc. ("Nuzone"), Kid Kusion ("Kid Kusion"), Kids Line ("Kids Line"), Kidco, Inc. ("Kidco"), Kid Kraft ("Kid Kraft"), Kolcraft Enterprises, Inc. ("Kolcraft"), Lambs & Ivy, Inc. ("Lambs"), CJ Leachco, Inc. ("Leachco"), Les Industries A.P. Inc. ("LIAP"), Levels of Discovery ("Levels"), Leylas aka Eastern Accents ("Leylas"), Lights-Camera-Interaction ("LCI"), The Manhattan Group ("Manhattan"), Mascotopia ("Mascotopia"), The Maya Group, Inc. ("Maya"), MBI Merchandise aka MCS Industries ("MCS"), Meadowbrook Press ("Meadowbrook"), Medela, Inc. ("Medela"), 4Moms ("Moms"), Mobi Technologies, Inc. ("Mobi"), Mommy's Helper ("MHelper"), Mothers Intuition (MIntution), Mac Motion Chairs ("MMC"), Mud Pie, Inc. ("Mud Pie"), Mullins Square, Inc. ("Mullins"), Munchkin, Inc. ("Munchkin"), Munire, Inc. ("Munire"), Mustela USA ("Mustela"), New Arrivals, Inc. (New Arrivals), Newell Rubbermaid, Inc. ("Rubbermaid"), North State Industries ("North State"), North American Bear Co., Inc. ("NABC"), OIOI Baby Bags USA ("OIOI"), Oopsy Daisey ("Oopsy"), Pali, Parent Units aka TV Guard ("TV

Guard”), Peaceable Kingdom Press (“Peaceable Kingdom”), Peg Perego USA, Inc. (“Peg Perego”), Perfect Memory Publications (“Perfect Memory”), Prince Lionheart (“Prince”), Preschool Prep Company (“Preschool”), Pulaski Furniture Corporation (“Pulaski”), RC2 aka The First Years, Inc. (“First Years”), Recaro North America, Inc. (“Recaro”), Regal Lager, Inc. (“Regal Lager”), Robeez Footwear (“Robeez”), The Rug Market America (“Rug Market”), Rumble Tuff aka RT Manufacturing (“Rumble Tuff”), Running Press (“Running Press”), Safeguard (“Safeguard”), Sassy, Inc. (“Sassy”), See Me Smile Products (“SMSP”), Simplicity for Children aka SPFC, Inc. aka Elfe Juvenile Products (“SFCA”), Small Fry Design (“Small Fry”), Sourcemark, LLC. (“Sourcemark”), Small World Toys (“Small World”), Snuggle Muff (“Snuggle”), Sorelle aka C&T International (“C&T”), Spring Air Company (“Spring Air”), Stanley Furniture Company aka Young America, Inc. (“Stanley”), Stokke, Summer Infant, Inc. (“Stokke”), Sunshine Kids (“Sunshine”), Sweet Kyla (“Kyla”), Three Lollies, LLC aka Peggie Pops (“Three Lollies”), 3 Marthas (“3 Marthas”), Tots in Mind (“Tots”), Touch for Life (“Touch”), Twelve Timbers, Inc. (“Twelve Timbers”), Twin Sisters Production, Inc. (“TSPI”), Unisar, Inc. (“Unisar”), WC Redmon Co., Inc. (“Redmon”), Westwood (“Westwood”), Workman Publishing Co. (“Workman”), XYZ Vendor Corporations 1-500 and Vendor Does 1-1000 (collectively, **Vendor Defendants**); XYZ Shipping Corporation 1-100 and Shipping Does 1-250 (collectively, **Shipping Defendants**); Travelers Indemnity Company and its Affiliates, Card Service International, Inc. (“Card Service”), Husch, Blackwell & Sanders, LLP (“Husch”), Hinshaw & Culbertson, LLP. (“Hinshaw”), Lawrence, Kamin, Saunders & Uhlenhop, LLC. (“LKSU”), Raymond Saunders (“Saunders”), John Monical (“Monical”), Charles Risch (“Risch”) and Paul Weltlich



("Weltlich"), Wick Phillips, LLP. ("Wick Phillips"), Brant Martin ("Martin") and Matt Miller (Miller), Trobe, Babowice and Associates ("Babowice"), Peter Trobe ("Trobe") and Michael Furlong ("Furlong"), Brian Properties, Inc. ("Brian Properties"), Jack Whisler ("Whisler"), Wallis Kraham ("Kraham") and Leslie Ruess ("LRuess"), DiMonte & Lizak, LLC. ("DiMonte") and Abraham Brustein ("Brustein"), Gray Robinson, P.A. ("Robinson") and Jason Burnett ("Burnett"), Mitchell Goldberg ("MGoldberg") and Lucille Goldberg ("LGoldberg"), Chuhak & Tecson, P.C. ("Tecson") and Jeralyn Baran ("Baran"), Jacque Sternquist ("Sternquist"), Rick Graffagna ("Graffagna"), Bill Hamilton ("Hamilton"), Kim Levine ("KLevine"), Tom Gierlak ("Gierlak"), and Cynthia Boeh ("Boeh"), Seyfarth and Shaw, LLP. ("Seyfarth") and Scott Schaefer ("Schaefer"), Smith Amundsen, LLP. ("SmithA") and Brian Graham ("Graham"), Petti, Murphy and Associates ("Petti") and Ed Petti ("EPetti"), M. Hedayat and Associates ("Hedayat"), Springer, Brown, Covey, Gaertner & Davis, LLP ("Davis"), and Martin, Craig, Chester, Sonnenschein, LLP. ("Sonnenschein") and Mark Toljanic ("Toljanic"), and Tabet, Divito and Rothstein, LLC ("Tabet"), and Mauck and Baker, LLC ("Mauck") and Andy Norman ("Norman"), and Bloch and Chapleau, LLP ("Chapleau"), and Fitch, Even, Tabin and Flannery, LLP ("Fitch Even"), and Bellande & Sargis Law Group ("Sargis"), and Blumenfeld, Kaplan and Sandweiss, LLP ("Kaplan") , and Greensfelder, Hemeker and Gale, LLP. ("Gale"), and Christ Stacey ("Stacey"), and Matthew Wildermuth ("Wildermuth"), and Much Shelist, LLP. ("Much Shelist"), and Piper Rudnick, LLP ("Rudnick"), and Stintson, Morrison and Hecker, LLP. ("Hecker"), McGladrey Pullen, LLP. ("McGladery"), Tom Shaw ("Shaw") and Joel Polakow ("Polakow"), GH Printing, Inc. ("GH Printing"), Click and Brick Marketing, LLC. ("Click"), Scott Sakoff

("Sakoff"), Arnstein and Lehr, LLP. ("Arnstein"), Commerce Capital, L.P. ("CCLP"), Fifth Third Bank, a Michigan Banking Corporation ("Fifth Third") and Mulherin, Rehfeldt & Varchetto, P.C. ("Varchetto"), American Chartered Bancorp, Inc. ("ACB") and Fuchs & Roselli, Ltd. ("Fuchs"), Honorable Bruce R. Kelsey ("Hon. Kelsey"), in his individual and official capacity, Honorable Hollis L. Webster ("Hon. Webster"), in her individual and official capacity, Honorable John T. Elsner ("Hon. Elsner"), in his individual and official capacity, Chris Kachiroubas ("Kachiroubas"), in his individual and official capacity, and Du Page County of Illinois ("Du Page County"), Honorable Richard J. Billick Jr. ("Hon. Billick"), in his individual and official capacity, Dorothy Brown ("Brown"), in her individual and official capacity, and Cook County of Illinois ("Cook County"), Honorable James R. Murphy ("Hon. Murphy"), in his individual and official capacity, Honorable Alan J. Cargerman ("Hon. Cargerman"), in his individual and official capacity, Deborah Seyller ("Seyller"), in her individual and official capacity and Kane County of Illinois ("Kane County"), Honorable Chief Judge Claudia Manley ("Hon. Manley"), in her individual and official capacity, Illinois Department of Labor ("IDOL"), Illinois Does 1-25 and the State of Illinois, Michael R. Sliwinski ("Sliwinski"), in his individual and official capacity the State of Ohio, Ohio Does 1-25 and State of Ohio, Hilda Solis (Solis), in her individual and official capacity, M. Patricia Smith (MSmith), in her individual and official capacity, Joan E. Gestrin ("Gestrin"), in her individual and official capacity, Steven L. Haugen ("Haugen"), in his individual and official capacity, Government Does 1-25 and the United States of America ("United States"), Toys R Us, Inc. dba Babies R Us and Babies R Us, Inc. ("BRU"), NINFRA, Baby Furniture Plus Association, Baby News, Does 1-100; XYZ Corporation 1-100; and,

(collectively, **Conspiracy Defendants**); and all assets, tangible and intangible, of Alvin Defendants, Franchisee Defendants, Vendor Defendants and Conspiracy Defendants, excluding the United States, that were used to further, aid, fund, finance or control the racketeering enterprise alleged in this complaint are incorporated herein as Defendants to this complaint, pursuant to **Supplemental Rules of the Federal Rules of Civil Procedure (“FRCP”)** (collectively, **Defendants’ Assets**<sup>1</sup>), Defendants, states as follows:

### **NATURE OF ACTION**

1. Plaintiff’s pleadings must be liberally construed. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).<sup>2</sup> Wallis is a non-attorney, and has never attended law school.

2. Plaintiff, by virtue of those acts committed on the high seas, or in furtherance of those acts, invokes admiralty jurisdiction over the In Rem and In Personam maritime components of this complaint.

3. This is an actual and justifiable controversy at law; it is not intended to threaten, harass, hinder or obstruct any lawful operation. This complaint is to obtain lawful remedies, as provided by well established law.

4. This complaint is a cause of action seeking actual damages in an amount of \$1,500,000,000.00+ for numerous and multiple acts by numerous and multiple parties – Defendants.

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<sup>1</sup>Wallis, after interrogatories are answered, reserves the right to amend this complaint to include counts for seizure of **Defendants Assets**, Defendants, used in the furtherance of and/or aid of the racketeering enterprise identified in this complaint, pursuant to **FRCP Supplemental Rules**.

<sup>2</sup>Since *Haines*, the United States Supreme Court (“Supreme Court”) has consistently held in its opinions that *pro se* litigants are to be afforded more liberal treatment than attorneys, and are not to be subjected to the same pleading standards as attorneys. There is a broad requirement to insure that *pro se* litigants receive justice in our system in spite of grammatical mistakes, failure to cite proper legal authorities and confusion of legal theories. Each court must conduct, as Supreme Court Justice John Paul Stevens (“Justice Stevens”) calls it, the Haines test, to insure justice in the fair administration of cases involving *pro se* litigants. Wallis is a *pro se* litigant.



5. A smuggling enterprise stole, converted and/or unlawfully obtained Assets from USA Baby, a debtor, and its estate. *In re USA Baby, Inc., Case No. 08 B 23564*.

6. On September 5, 2008, by statute, **11 USC 541**, Assets were consolidated in this District before the United States Bankruptcy Court, Northern District of Illinois, Eastern Division ("Bankruptcy Court").

7. On February 9, 2011, Assets were abandoned to Wallis by Order. Wallis is the sole owner of said Assets, including legal claims. Wallis owns title to lawful remedies for those acts committed by Defendants against USA Baby.<sup>3</sup>

8. At all times relevant, Franchisee Defendants, Vendor Defendants and Shipping Defendants (collectively, "Smugglers") smuggled goods<sup>4</sup> ("Goods") into the United States and Puerto Rico ("US Territory") under and/or utilizing one or more federally registered trademarks: "USA Baby," "The Baby's Room," "Child Space," and "America's Leading Specialty Retailer of Infant and Children's Furniture and Accessories" (collectively, "Registered Marks").

9. At all times relevant, Smugglers used USA Baby's confidential and proprietary operations manual ("Ops Manual") and system(s) ("Systems"), as defined in executed franchise agreement(s) ("Franchise Agreement(s)") and Uniform Franchise Offering Circular<sup>5</sup> ("UFOC"), and manifest of approved vendors/products ("Manifest"),

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<sup>3</sup>On July 6, 2009, CCLP purportedly obtained title to certain assets owned by USA Baby. Wallis has/is contested/contesting the validity of said sale. But, none of the claims in this complaint are in dispute. Wallis owns all Assets being sought by and through this complaint.

<sup>4</sup>Goods herein after used in this complaint is defined as any and all USA Baby products or trade secrets smuggled into and/or out of the United States.

<sup>5</sup> Portions of the the UFOC (aka Franchise Disclosure Document ("FDD")) is attached as Exhibit 2, and contains a sample Start-Up Franchise Agreement with the same or similar terms as those signed by Franchisee Defendants.

to smuggle Goods, including exclusive products, to sell at Franchisee Defendants locations<sup>6</sup> (“Locations”), and competing retail stores (“Competitors”).

10. Said Goods, at all times relevant, were sold at said locations in violation of agreements<sup>7</sup>. Franchisee Defendants, at all times relevant, were offered “incentives” by Vendor Defendants, i.e. rebates on a percentage of sales/purchases of products (aka “Rebates”): cash, check or other forms of monetary exchange by regular postal mail or wire transfer, deduct from invoice (“DFI”), and/or payment terms (“Terms”).

11. Smugglers used the high seas to transport said products (aka “Goods”) into US Territory in furtherance of a corrupt enterprise, as defined by 18 USC 1962(a)(b)(c)(d).

12. Alvin Defendants aided and abetted said smuggling enterprise by founding, financing, promoting and recruiting members for said enterprise.

13. Conspiracy Defendants aided and abetted Alvin Defendants and Smugglers (collectively, “Pirating Enterprise”) through acts that furthered said enterprise.

14. Pirating Enterprise committed predicate acts of racketeering to smuggle Goods into US Territory under said Marks utilizing said Systems and Trade Secrets, to sell said Goods at Locations and to Competitors. Said smuggling operation began in 2007 and continues to this day.

15. A continuing patterning of racketeering began, exists and is now threatening the health of the Juvenile Products industry.<sup>8</sup> Wallis is a whistleblower on

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<sup>6</sup>Wallis has provided list of identified franchisee locations in Exhibit 1.

<sup>7</sup>Franchisee Defendants signed Personal Guarantees for said location(s) (Exhibit 3).

<sup>8</sup>Wallis believes that said pattern of racketeering and said threat to said industry may have caused or is causing health and safety issues within said industry. Numerous product recalls, injuries and even deaths have occurred during said periods due to said enterprise’s acts. And, USA Baby’s

said industry corruption and practices, that have led to numerous product safety issues, including infant deaths and injuries.<sup>9</sup>

16. Smugglers smuggling enterprise includes name brand retailers like BRU.<sup>10</sup>

17. Toys R Us, BRU's parent corporation, aided and abetted said smuggling enterprise through a price fixing ring including one or more Vendor Defendants on or after 2006.<sup>11</sup> Britax was/is involved in said scheme.<sup>12</sup> Plaintiff knows others are involved, and, after discovery, will amend the complaint to include said Vendor Defendants.

18. Kids Brand, a publicly trade company, admittedly violated customs duties by importing Goods into US Territory: to support and aid said enterprise (Exhibit 7).

19. Defendants committed the following predicate acts of racketeering to aid and abet said smuggling enterprise: 1) Interstate and foreign travel or transportation in aid of racketeering enterprises, **18 USC 1952**, 2) transshipment and/or exportation of goods or services bearing counterfeit marks, **18 USC 2320(h)**, 3) shipping or receiving stolen

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absence in said industry has removed a stabilizing force for safety. USA Baby's focused on providing study guides and other safety information to new parents to aid them in caring for their infants. And, held manufacturers accountable for safety concerns. This is now gone due to the impact of said enterprise, as outlined in this complaint.

<sup>9</sup>Wallis hereby declares he is a person within the meaning of the **Sarbanes-Oxley Act** under **Section 1107** of that **Act**, which amends **18 USC 1513** to protect persons from those who "knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense..." Wallis believes that he is being retaliated against for providing law enforcement officials information concerning violation of federal offenses.

<sup>10</sup> Toys R Us is the parent company of Babies R Us, Inc. ("BRU"), currently under investigation by the Federal Trade Commission ("FTC"), for alleged violations of an administrative order by the FTC preventing said anti-trust conduct, which was affirmed by the Seventh Circuit Court of Appeals. *Toys R Us, Inc. v FTC*, 221 F.3d 928 (7<sup>th</sup> Cir., 2000). (Exhibit 4)

<sup>11</sup>BRU allegedly violated the above court order by engaging in predatory practices with certain Vendor Defendants, as outlined in Exhibit 5.

<sup>12</sup>Plaintiff herein incorporates email exchanges with Britax, and their attempts to control pricing within the baby furniture industry, while the automatic stay was/is pending, and to otherwise act to further said enterprise through price fixing (Exhibit 6).



goods, **18 USC 2314** and **2315**, 4) receipt of monies from racketeering activities, **18 USC 1957**, 5) fraud and misuse of visa, permits or other documents to gain entry into the United States, **18 USC 1546**, 6) fraud in connection with a title 11 case, **18 USC 1961(D)** aka **18 USC 151-57**, 7) retaliation against a witness in violation of **18 USC 1513**, 8) robbery, theft, and extortion with sentences of over one year, and 9) criminal conspiracy.

20. Pirating Enterprise funded, financed and furthered predicate acts for a known corrupt enterprise, violating known racketeering laws, **18 USC 1962(a)(b)(c)(d)**, that allow for civil recovery, **18 USC 1964(a)(c)**.

21. Said enterprise was formed by a chain conspiracy among, by and between Pirating Enterprise and Conspiracy Defendants (collectively, "Smuggling Enterprise"). Said Defendants, individually and/or conspiratorially, as agents or vicariously, used the high seas to loot, pillage and plunder said debtor's estate, while under this Court's jurisdiction and protection.

22. Plaintiff, pursuant to admiralty law for In Rem claims related to the Res<sup>13</sup>, has the right to seek redress before this court to obtain the Res, his lawful property, from Defendants, wherever, and by whomever, held.

23. Plaintiff, pursuant to admiralty law for In Personam claims, has the right to seek redress for damages done by Defendants against USA Baby, and proceed [in rem] or [quasi in rem] to garnish **Defendants' Assets** located in this District.

#### **THE PARTIES**

24. Scott Wallis resides in Illinois and owns a residence at 2543 Emily Lane, Elgin, IL 60124. From January 1, 2005 through February 11, 2009, Wallis was USA

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<sup>13</sup>Black's Legal Dictionary, 8<sup>th</sup> Edition defines Res as "an object, interest, or status, as opposed to a person <jurisdiction of the res – the real property...>."

Baby's Chief Financial Officer and/or Chief Operations Officers and/or USA Baby's President and Sole Director.

25. At all times relevant, Alvin Defendants<sup>14</sup> were/are comprised of Levine and Cohodes (L&C) and/or corporations owned by L&C. At all times relevant, Alvin Defendants aided and abetted Smugglers, were members or founders of Pirating Enterprise, and coordinated actions of Smuggling Enterprise.

26. At all times relevant, Franchisee Defendants<sup>15</sup> were/are comprised of USA Baby franchisees, licensees or guarantors (See Ex. 1, 3). Franchisee Defendants are Smugglers, members of Pirating Enterprise and formed said Smuggling Enterprise.

27. At all times relevant, Vendor Defendants<sup>16</sup> were/are comprised of vendors in USA Baby's Manifest<sup>17</sup> (Exhibit 8). Vendor Defendants are Smugglers, members of Pirating Enterprise, and smuggled Goods into US Territory for Smuggling Enterprise.

28. At all times relevant, Shipping Defendants<sup>18</sup> were/are comprised of entities/individuals transporting Goods for Vendor Defendants under Registered Marks into and throughout US Territory for sale to consumers at Locations and Competitors.

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<sup>14</sup> Alvin Defendants names and addresses are listed in Exhibit A.

<sup>15</sup> Franchisee Defendants names and addresses are listed in Ex. 1.

<sup>16</sup> Vendor Defendants names and addresses are listed in Ex. 8.

<sup>17</sup> USA Baby developed the Manifest to enable franchisees to order products from Vendor Defendants. The Manifest contained specific products, including private label products, and special pricing only available to USA Baby. USA Baby was involved in the design of certain products in the Manifest. USA Baby negotiated pricing on products and Rebates on said products contained in the Manifest.

<sup>18</sup> Shipping Defendants names and addresses are believed to be listed on the bills of lading, and are within Vendor Defendants and/or Franchisee Defendants exclusive possession. Cargo transport is the primary way Manifest products were and are shipped into US Territory. Those shipments are believed to have been received at US Territory ports in San Diego, California, Honolulu, Hawaii and/or New York, New York or other mainland ports of call.

29. At all relevant times, Conspiracy Defendants<sup>19</sup> were/are comprised of entities/individuals involved in aiding and abetting, vicariously or as co-conspirators, the corrupt enterprise formed to loot, plunder and pillage said estate.

#### **JURISDICTION, STANDING AND VENUE**

30. Pursuant to **28 USC 1334**, the United States District Court, Northern District of Illinois, Eastern Division ("District Court") has exclusive jurisdiction of Assets, past or present, wherever, and by whomever, held. This court has personal jurisdiction over Plaintiff. Assets were consolidated under this District Court.

31. Pursuant to **28 USC 1333**, Admiralty law may be invoked for In Rem and In Personam claims arising from Defendants acts committed on the high seas, or in furthering acts committed on the high seas. This court has jurisdiction over the Res. Plaintiff has maritime liens<sup>20</sup> on the Res, Goods and **Defendants Assets**.

32. Pursuant to **FRCP 9(h)**, admiralty claims may be heard and are applicable in this Court under **Article III** of the **United States Constitution**. Wallis hereby invokes **FRCP Supplemental Rules A-G**.

33. This Court may also hear said admiralty claims under the legal doctrine of equitable jurisdiction.<sup>21</sup>

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<sup>19</sup>Conspiracy Defendants names and addresses are listed in Exhibit B.

<sup>20</sup>Black's Legal Dictionary defines maritime lien as a "lien on a vessel, given to secure the claim of a creditor who provided maritime services to the vessel or who suffered an injury from the vessel's use ["The maritime lien has been described as one of the most striking peculiarities of Admiralty law, constituting a charge upon ships of a nature unknown alike to common law and equity. It arises by operation of law and exists as a claim upon the property, secret and invisible. A maritime lien may be defined as : (1) a privileged claim, (2) upon maritime property, (3) for service done to it or injury caused by it, (4) accruing from the moment when the claim attaches, (5) traveling with the property unconditionally, (6) enforced by means of an action in rem." **Griffith Price, The Law of Maritime Liens 1 (1940).**]

<sup>21</sup>*In re Millennium Seacarriers, Inc., et al*, 419 F.3d 83 (2<sup>nd</sup> Cir., 2005).



34. Pursuant to **28 USC 1331**, this Court has jurisdiction over violations of federal law, including predicate acts of racketeering and civil rights violations.

35. Pursuant to **28 USC 1332(a)(3)**, this Court has jurisdiction, for there are citizens of different States and citizens or subjects of a foreign state are additional parties.

36. Pursuant to **28 USC 1367(a)**, this court has supplemental jurisdiction over state law claims, including those common law claims alleged in this complaint.

37. Plaintiff has standing, individually, and as said beneficiary, to pursue In Rem claims related to the Res and In Personam claims related to the debtor.<sup>22</sup>

38. Plaintiff has standing to act for a debtor under admiralty law.<sup>23</sup>

39. The automatic stay is still in effect in the bankruptcy until the case is fully “wound up.”<sup>24</sup> USA Baby’s bankruptcy case has not been closed, but is pending.

40. Pursuant to **28 USC 1391(b)(2)** and **28 USC 1409(a)**, USA Baby’s pending bankruptcy is in this District, Assets are located in this District, and a substantial portion of the acts committed arose from or against persons/entities in this District.

41. Certain **Defendants’ Assets** are located in this District. Wallis will proceed [in rem] or [quasi in rem] against said Defendants, after answers to his first set of interrogatories. Wallis will seek to attach, garnish, possess, seize or levy said assets.

### **FACTS COMMON TO ALL COUNTS**

#### **USA Baby’s Franchise System**

42. USA Baby was America’s #1 specialty retailer of infant and children’s furniture and accessories in the United States. Collectively, its franchisees sold

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<sup>22</sup> *In re USA Baby, Inc.*, 08 B 23564, February 9<sup>th</sup>, 2011 Order.

<sup>23</sup> *Wight v. Maxwell*, 4 Mich. 45, 59 (Mich. 1855). The Admiralty Law Doctrine of Equitable Jurisdiction.

<sup>24</sup> “The automatic stay, unless lifted, remains in effect until the entire proceeding is wound up...” *In re James Wilson Associates*, 965 F.2d 160 (7<sup>th</sup> Cir. 1992).

approximately ninety-two million dollars (\$92,000,000.00) in 2006, eighty-five million dollars (\$85,000,000.00) in 2007 and seventy-five million dollars (\$75,000,000.00), as of September of 2008.

43. As of September 2008, USA Baby had franchised locations in the following markets: Atlanta, GA, two (2) stores; Austin, TX; Battle Creek, MI; Brookfield, CT; Brookfield, WI; Buffalo, NY; Burbank, CA; Charlotte, NC; Cherry Hill, New Jersey; Huntingdon Valley, PA; Detroit, MI, four (4) stores; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Greenville, SC; Hartford, CT; Hawaii, two (2) stores; Hollywood, FL; Indianapolis, IN; Jacksonville, FL; Las Vegas, NV; Louisville, KY; Madison, WI; Minneapolis, MN; Nashville, TN; Omaha, NE; Orlando, FL; Overland Park, KS; Pittsburgh, PA; Raleigh, NC; Richmond, VA; Riverside, CA; San Antonio, TX; Houston, TX, two (2) stores; San Diego, CA; San Juan Capistrano, CA; San Juan, Puerto Rico; Scottsdale, AZ; Taylorsville, UT; Tempe, AZ; Torrance, CA; Tukwila, WA; Virginia Beach, VA; and other locations. USA Baby franchisees operated Locations under Franchise Agreement(s), and agreed to be bound by said Franchise Agreements.<sup>25</sup>

44. USA Baby owned Registered Marks. Wallis owns Registered Marks. Registered Marks were lawfully transferred to Wallis by the United States Patent and Trademark Office ("USTPO") in 2011. The registration numbers are: USA Baby Nos. 1498176 and 2692465 in International Class 35 & 42; The Baby's Room Nos. 1634474, 2443615 and 3031990 in International Class 35 & 42; Child Space Nos. 2472684 and 2474811 in International Class 35; and America's Leading Specialty Retailer of Infant and Children's Furniture and Accessories No. 3753576 in International Class 35.

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<sup>25</sup> Plaintiff herein incorporates Franchise Agreement(s) executed by Franchisee Defendants into this complaint.

45. Said Marks are for “retail store services in the field of furniture, mattresses, toys and accessory merchandise for infants and children,” and “retail store services featuring furniture for infants, children and teenagers, namely, cribs, mattresses, bunk beds, captains beds, loft beds, twin beds, desks, hutches, bookcases, entertainment units, storage units, rockers, armoires, dressers, chairs and toys and related merchandise.”

46. Registered Marks have been in use since 1987. USA Baby has expended significant advertising dollars to promote Registered Marks, \$30,000,000.00+. It is a highly recognizable name among pre-birth moms buying baby furniture. USA Baby’s name, in its niche market, based on marketing studies, was more recognizable than BRU. USA Baby’s name communicated value. Said name had significant good will.

47. USA Baby’s licensed use of its Systems<sup>26</sup> and/or Registered Marks to franchisees via Franchise Agreement(s) (See Ex. 2). The Franchise Agreement(s) regulated “the establishment, development and operation of franchised businesses for the retail sale of furniture, mattresses, clothing, toys, merchandise, accessories, and related products for infant and children...” Franchise Agreement(s) were specific regarding the use of the Systems and Registered Marks.<sup>27</sup>

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<sup>26</sup> USA Baby’s Systems “include[s], without limitation, distinctive exterior and interior décor, color scheme, design and layout; exclusively designed decorations, furnishings and materials; the USA Baby Confidential Operations Manual; uniform retail store operating methods, procedures and techniques; other confidential operations procedures; and methods and techniques for inventory and cost controls, record keeping and reporting, personnel management and training, purchasing, marketing, sales promotion and advertising...”

<sup>27</sup> The Franchise Agreement(s) states, “This agreement shall terminate without further action by Franchisor or notice to Franchisee if Franchisee or Franchisee’s owner: (1) Fails or refuses to make payments of any amounts due Franchisor or its affiliates for Continuing Services and Royalty Fees, advertising contributions, purchases from Franchisor or its affiliates or any other amounts due to Franchisor or its affiliates, and does not correct such failure or refusal within ten (10) days after written notice of such failure is delivered to Franchisee; (2) Fails or refuses to comply with any other provision of this Agreement, or any mandatory specification, standard or operating procedure prescribed in the Confidential Operations Manual or otherwise in writing,



48. Pursuant to said Franchise Agreement(s), franchisees were required to report and pay a Continuing Services and Royalty Fee ("Royalties") to use USA Baby's Systems, Trade Secrets, Registered Marks, Ops Manual and Manifest (collectively "Intellectual Property"). Royalties were to be paid by the "Wednesday for the preceding week ending Sunday," and sent weekly to USA Baby's offices at 793 Springer Dr., Lombard, IL 60148, and to be accompanied by a "weekly statement, on an approved form, with the franchisee's personal signature stating the gross receipts for that week."

### **The Bankruptcy Petition**

49. On September 5, 2008, Kraham, Whisler and LRuess (collectively, "Creditors") filed an involuntary bankruptcy petition ("Petition").

50. Pursuant to **11 USC 362**<sup>28</sup>, an automatic stay, a statutory injunction, was immediately entered. Said injunction applied to all creditors.

51. LRuess, in said Petition, claimed she was owed over \$100,000.00. She was not. Actual amounts were less than \$5,000.00, if owed. Said amounts were disputed

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and does not correct such failure within thirty (30) days (or provide proof acceptable to Franchisor that it has made all reasonable efforts to correct such failure and will continue to make all reasonable efforts to cure until a cure is effected if such failure cannot reasonably be corrected within thirty (30) days after written notice of such failure to comply is delivered to Franchisee."

<sup>28</sup> **11 USC 362** states, "...a petition filed under section **301**, **302**, or **303** of this title...operates as a stay, applicable to all entities, of (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been 'commencement of the case under this title' ("Case"); (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before [Case]; (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate; (4) any act to create, perfect, or enforce any lien against property of the estate; (5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before [Case]; (6) any act to collect, assess, or recover a claim against the debtor that arose before [Case]; the setoff of any debt owing to the debtor that arose before [Case] against any claim against debtor; and (8) the commencement or continuation of a proceeding before the United State Tax Court concerning a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

and subject to an arbitration agreement. Kraham's and Whisler's debenture agreements were also subject to arbitration. All claims in said Petition were subject to arbitration.

52. Prior to filing said Petition, Creditors, Brustein and DiMonte knew said amounts claimed in said Petition were subject to arbitration.

53. When said Petition was filed, USA Baby was a profitable company. Its financial statements projected profits of an estimated \$750,000.00 in 2008 (Exhibit 9).

54. From September 2008 to November 2008, USA Baby's income dropped from \$250,000.00+ per month to less than \$30,000 per month.

55. Franchisee Defendants and Vendor Defendants collectively and conspiratorially defaulted on payments to USA Baby.

56. On November 6, 2008, GH Printing, Sonnenschein and Graffagna (collectively, "Additional Creditors") joined said Petition.

57. USA Baby's income was reduced, and its legal expenses increased, by said actions. This was the intended purpose.

58. Franchisee Defendants attorneys, Alvin Defendants attorneys, Goldbergs attorneys, Creditors attorneys and other attorneys concocted said scheme.

59. Said attorneys utilized the legal system to bankrupt, loot, and plunder USA Baby and Wallis, to purposefully inflict harm to USA Baby and Wallis.

60. Wallis and Eriksen were targeted with litigation for amounts allegedly owed by USA Baby. USA Baby could not pay said amounts due to said acts.

#### **The Plan to Bankrupt USA Baby**

##### **The Goldbergs Lawsuit Against USA Baby:**

61. Creditors claims were similar to MGoldberg and LGoldberg (the "Goldbergs"): debenture amounts subject to an arbitration agreement.

62. In November 2006, USA Baby was late in paying the 3<sup>rd</sup> quarter debenture payment to the Goldbergs.

63. USA Baby attorney, Andy Norman ("Norman"), contacted the Goldbergs attorney, Patricia Nolan ("Nolan"), to explain said late payment: MGoldberg had asked for payment in his name, then asked for said payment be made to Storx Holdings, LLC ("Storx"), then asked for payment to himself. Mary Benard ("Benard"), USA Baby's Vice President of Finance and Administration, was confused as to the payee. USA Baby sought to resolve this issue by first sending payment. Said payment was rejected.

64. In December 2006, USA Baby was sued by the Goldbergs in the Superior Court of Arizona, Maricopa County, AZ, Case No. CV2006-018386. The Goldbergs alleged a default, i.e. a debenture payment was late. The Goldbergs filed said lawsuit, then an arbitration claim, to have the debenture payment accelerated.

65. In early 2008, a settlement agreement was reached (Exhibit 10). Within weeks, USA Baby made two (2) payments toward said agreement. The Goldbergs were to provide documents, records, emails and other communications ("Data") from Group 1, Alvin Defendants, LKSU Firm, and Wick Firm. They didn't. Instead, said Data was withheld and/or destroyed. This was discovered by computer forensic expert, Forensicon.

66. Tecson attorney, Baran, represented the Goldbergs. Baran is related to Monical. Baran failed to disclose this fact prior to said agreement. This is significant. Said settlement required the Goldbergs to turn over all communication involving Levine and Monical. Said omission demonstrates significant motives for fraud.

*The Conspiratorial Actions of Levine, Goldbergs and LRuess Against USA Baby:*

67. In 2004, the Goldbergs signed a confidentiality agreement and agreed to not disclose their debenture agreement's terms.



68. In 2006, Goldbergs disclosed said terms to Levine. They made said disclosures to plan and coordinate a scheme with Alvin Defendants against USA Baby.

69. The Goldbergs sued USA Baby. L&C sued USA Baby, Eriksen and Wallis. The Goldbergs and Alvin Defendants used said lawsuits to disclose confidential information, including Trade Secrets, to each other, Franchisee Defendants and Vendor Defendants. Said lawsuits were common knowledge among Franchisee Defendants.

70. On February 18, 2007, Levine, MGoldberg and Patricia Nolan ("Nolan"), via email, were in communication with one another on how to bankrupt USA Baby. Nolan represented the Goldbergs in Case No. CV2006-018386.

71. On April 16, 2007, the Honorable Peter Swann ("Judge Swann"), in said case, ruled said debenture was subject to arbitration.

72. LRuess knew of said lawsuit and resulting order issued by Judge Swann.

73. From December 2006 through September 2008, L&C coordinated the actions of Alvin Defendants, Franchisee Defendants, Vendor Defendants, Creditors and certain Conspiracy Defendants via regular mail and wired communications (i.e. internet, instant messaging, phone calls, etc.). L&C linked Franchisee Defendants, Vendor Defendants, Alvin Defendants, Creditors and Conspiracy Defendants.

Franchisee Defendants and Their Attorneys' Conspiratorial Actions:

74. Throughout 2007, Franchisee Defendants formed online chat groups, internet messaging sites, held unauthorized meetings, created fictitious franchisees (aka Bob Smith) that published/promoted defamatory letters, and actively misrepresented the overall health of the franchise system.

75. In 2006 & 2007, Martin, Miller and Wick Phillips ("Wick Firm") recruited Franchisee Defendants to file frivolous lawsuits/arbitration claims against USA Baby.

76. EXAMPLE – On March 6, 2007, Wick Firm filed a class arbitration, knowing the Franchise Agreement(s) prevented class actions. See *Chris White et al. v. USA Baby, Inc., et al., Case No. 51 114 Y 00323 07*.

77. Franchisee Defendants involved in said class arbitration: Chris White and Steve Craddock, d/b/a C&W Baby Products, Inc. [Franklin, TN]; James and Linda Kasher, Rick and Beth Jenkins, and Jalikan, Inc. [Kansas City, KS]; Bob and Linda Helmholdt, and Madison Baby, Inc. [Madison, WI]; Eric and Julie Kohli and N-One, LLC [Las Vegas, NV]; Stuart Lebovitz and SJL Enterprises, Inc. [Pittsburg, PA]; Richard and Jason Cohen and TMD Family, LLC [Atlanta, GA]; Timothy Voehl and USA Enterprises [Richfield, MN]; Thomas and Debbie Nickel and Winc Baby, Inc. [Charlotte, NC]; Bob and Mari Paffenroth and Wisconsin Baby, Inc [Milwaukee, WI]. (collectively, “Group 1”)

78. Their BIG LIE in said claim: USA Baby wasn’t supporting its franchisees. In truth, average annual store sales had increased to \$1,750,000.00, a \$300,000.00+ per store increase from May 2004 (Exhibit 11).

79. From March 6, 2007 thru September 5, 2008, said Defendants owed, and collectively refused to pay, around \$750,000.00 in Royalties.

Recruiting, Expanding and Funding the Enterprise:

80. Said Defendants, prior to said Petition and with full knowledge of Wick Firm, recruited other Franchisee Defendants, to collectively withhold Royalties.

81. From 2006 thru 2008, JCohen published and promoted said Bob Smith letters: letters disparaged USA Baby, Eriksen and Wallis (Exhibit 12). Said letters were

distributed throughout the Juvenile Products Industry by Alvin Defendants, Franchisee Defendants and Vendor Defendants.

82. From 2006 through 2008, LKSU, Saunders, Monical, Risch and Weltlich ("LKSU Firm") contacted McGladery and Gene Barinholtz ("Barinholtz"), USA Baby's auditors, in all likelihood to threaten legal action to intimidate them.

83. Shortly after LKSU Firm contacted Barinholtz, USA Baby had issues with Barinholtz completing its 2004 audit. Said audit was eventually completed. And, USA Baby switched from Barinholtz to McGladery.

84. Shortly after McGladery was hired, LKSU Firm contacted them. Then, USA Baby had issues with McGladery. McGladery, Shaw and Polakow ("McGladery Firm") did not complete USA Baby's 2005 or 2006 audits.

85. McGladery Firm, after being hired, changed their auditing standards. McGladery Firm required a corporate valuation from USA Baby. McGladery did not disclose this requirement prior to being hired. Ultimately, said change increased costs, and created delays and hindrances to said audit's completion. Then, McGladery Firm, on the eve of completing said audits, withdrew.

86. At all times relevant, USA Baby employees [Hamilton, Boeh, Sternquist, Graffagna, Gierlak and KLevine] were recruited by Alvin Defendants and Franchisee Defendants to spy, snoop, divulge, and disclose Trade Secrets. LKSU Firm disclosed said Trade Secrets in litigation with USA Baby for Alvin Defendants. Said acts decreased Rebates and Royalties, and fomented discontent among USA Baby's franchisees.

87. In mid 2008, Franchisee Defendants asked Vendor Defendants to make Rebate payments to them. Vendor Defendants stopped paying Rebates to USA Baby.



88. In mid 2008, Kraham disclosed Trade Secrets: debenture holder information, i.e. names, amounts, interest and dates due, to Alvin Defendants and Franchisee Defendants, which violated a confidentiality agreement she signed in 2004.

89. On December 5, 2008, Franchisee Defendants owed \$3,000,000.00+ in Royalties (Exhibit 13). And, damages for the unauthorized use of Intellectual Property.

90. As of May 12, 2011, Franchisee Defendants owed \$10,000,000.00+ to USA Baby.<sup>29</sup> And, damages for said use of said Intellectual Property.

91. Franchisee Defendants have continued to use said Intellectual Property without payment since said Petition.

### **The Misappropriation of Trade Secrets and Theft of Registered Marks**

#### **Misappropriation of Trade Secrets:**

92. From May 2007 thru December 2008, default letters were sent by certified mail, fax and email to Franchisee Defendants by USA Baby (Exhibit 14).

93. Franchisee Defendants' Franchise Agreement(s) automatically terminated for non-payment ten (10) days after the delivery of said default letters.

94. Franchisee Defendants did not cure said default. Franchisee Defendants continued using Intellectual Property to make sales and purchase products.

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<sup>29</sup> Based on the September 2008 financials, the total amount of royalties owed for use of said trademarks, from February 4, 2009 to July 6, 2009 was equal to approximately one million eighty eight thousand and forty dollars and eighty five cents (\$1,088,040.85) (7503.73 daily x 145 days). From October 1, 2008 to February 4, 2009, amounts owed were eight hundred and forty thousand four hundred and seventeen dollars and seventy six cents (\$840,417.76). Prior to October 1, 2008, amounts owed were three million five hundred and thirteen thousand one hundred and eight dollars (\$3,513,108.00). Total amounts owed by said Groups through the sale date to CCLP: five million four hundred and forty one thousand five hundred and sixty seven dollars (\$5,441,567.00). Since July 6, 2009, the total amounts owed are (7503.73 daily x 602 days) = (\$4,517,245.46). Total owed = (\$4,517,245.46) + (5,441,567.00) = nine million nine hundred fifty eight thousand eight hundred twelve dollars and forty six cents (\$9,958,812.46).